UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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                                 :

ANDREW TORO,   :

                 Plaintiff,   :

                                 :   23 Civ. 2134 (JPC)

       -v-   :

                                 :   ORDER

HEARTBREAKER GUITARS LIMITED, LLC, :

                                 :

               Defendant.   :

                                 :
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JOHN P. CRONAN, United States District Judge:

The Complaint in this action was filed on March 13, 2023. Dkt. 1. Defendant has not appeared in this action, and the docket does not reflect whether Defendant has been served. Pursuant to Federal Rule of Civil Procedure 4(m), "[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). Nor has Plaintiff requested an extension of time to serve Defendant.

Accordingly, Plaintiff is ordered to file a status letter by June 16, 2023, describing (1) whether service of the summons and Complaint has been made on Defendant, and if not, (2) why good cause exists to excuse Plaintiff's failure to serve Defendant within the 90-day deadline set by Rule 4(m). *See* Fed. R. Civ. P. 4(m) ("[I]f the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."). The Court reminds Plaintiff that "[t]o establish good case a plaintiff must demonstrate that despite diligent attempts, service could not be made due to exceptional circumstances beyond his or her control." *Deptula v. Rosen*, 558 F. Supp. 3d 73, 75 (S.D.N.Y. 2021) (internal quotation marks omitted).

Plaintiff must file this letter even if service of the Summons and Complaint is or has already been made on Defendant. If Defendant has been served, Plaintiff must also file proof of service on the docket no later than June 16, 2023. If no such letter is filed, the Court may dismiss the case for failure to prosecute.

      SO ORDERED.

Dated: June 14, 2023
      New York, New York

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JOHN P. CRONAN
United States District Judge